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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

YUSSUF, SAJID

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 06/01/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/700,814

Applicant(s)

VAN TOL, ALPHONSUS
JOHANNES

Examiner

Sajid A Yussuf

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2000 and 15 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been received.

Drawings

2. The drawings are objected to because examiner finds them to be vague and not elaborate enough to convey the inventive concept. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claim(s) 5-7 is/are rejected under 35 U.S.C. 102(e) as being anticipated by Li et al. (US Patent No. 6,021,088 and Li hereinafter).

7. As per claim(s) 5 Li discloses a system for establishing a permanent connection between the internet and a user subscribed to the internet (See Column 2 Lines 19-39), said system comprising a switching PoP having incoming lines through which switched telephone traffic enters (See Column 5 Lines 57-67), characterized in that said system further comprises a PoP manager (i.e., NOC), (See Column 5 Lines 24-45) and inputs which are not connected to the telephone exchange and which are permanently connected to a connection at a subscriber, said subscriber being connected through said connection, (See Column 5 Lines 30-56) inputs and switching PoP to an ISP on the basis of an instruction (i.e., hardware or software for management) (See Column 5 Lines 34-46) the PoP manager (i.e., NOC).

8. As per claim(s) 6 Li teaches the claimed invention as described in claim 5 above and furthermore discloses the inputs of the PoP not being connected to the telephone exchange can be executed as a two-wire connections in such a way that the subscriber is directly connected to the switching PoP and is switched on the basis of a instruction of the PoP manager; (i.e., there exist many forms of connections in which the user can be connected as including but not limited to directly being connected to the switching PoP), (See Column 5 Lines 38-56).

9. As per claim(s) 7 Li teaches the claimed invention as described in claims 5-6 above and furthermore discloses standard multiplexing equipment (i.e., distribution router) (See Column 6 Lines 13-25) is employed to which the subscriber is connected by a two-wire connection (i.e., copper wire pairs) (See Column 5 Lines 49-56), said multiplexing equipment being connected to said switching PoP (i.e., POP) (See Column 6 Lines 13-20) and is switched (i.e., managed) on the basis of an instruction of the PoP manager (i.e., NOC) (See Column 5 Lines 34-56).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

- a. Determining the scope and contents of the prior art.
- b. Ascertaining the differences between the prior art and the claims at issue.
- c. Resolving the level of ordinary skill in the pertinent art.
- d. Considering objective evidence present in the application indicating obviousness or nonobviousness.

12. Claim(s) 8 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Li et al. (US Patent No. 6,021,088 and Li hereinafter) in view of Sofman et al. (US Patent No. 5,937,042 and Sofman hereinafter).

13. As per claim 8 Li discloses the claimed invention as described above.

However, Li does not explicitly teach that the PoP is switchable by a PoP manager at a **distance**.

Sofman teaches PoP is switchable by a PoP manager (i.e., EO) at a **distance** (See Sofman Column 10 Lines 63-67 & Column 11 Lines 1-9 & Column 30 Lines 1-3); wherein rehome refers to a network change which involves moving telephone service traffic from one switching center to a different switching center. Likewise, the term rehome or rehomeing, used in a verb sense, is referred to as making the network change of moving telephone service traffic from one switching center to a different switching center.

Therefore it would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention to modify the teaching of Li with the teachings of Sofman to include a PoP that was switchable at a **distance** with the motivation to provide for rehome optimization solutions according to cost objectives...it provides an improved method and system for rehome optimization in response to a network alarm such as a traffic threshold exceeded or a failure detected on a switch, (See Sofman Column 3 Lines 1-19).

Response to Arguments

14. Applicant's arguments filed 2/25/04 have been fully considered but they are not persuasive.

15. Applicant states in the amendment dated 12 April 2004 "from the format of the rejection it is difficult to determine exactly what is meant by the citations. Applicant has assumed that of the citations of the rejection is being applied to the claim language preceding each citation, and that the Examiner believes that each citation teaches the claim language preceded by it. These assumptions are made for the sake of prosecution efficiency. Applicant bases the arguments upon these assumption and note that Applicant does not believe that each citation teaches the preceding claim language."

16. Examiner asserts that the assumption made is correct however, the Examiner respectfully states that each citation teaches the claimed invention as described in claim language.

17. As per claim(s) 5 Applicant states, "a critical purpose of the present invention is to allow suppliers to condition access to their information, etc., upon their receiving various desired information. This is referred to in the present application as a suitable protocol, and both claims 1 and 18 have been amended to clearly recite that the protocol is established by the supplier."

18. Examiner respectfully disagrees as the amended claims neither are narrow nor do they recite statements that clarify the scope of the invention. Furthermore, Goedken does teach of suppliers (i.e., first and second information custodians); wherein Goedken teaches the sending and receiving of information, (See Column 6 Lines 24-67).

19. As per claim(s) 5 Applicant states, "The Office action cites Li '088 at col. 2, lines 19-39 against the claim language "**permanent connection between the Internet** and a user subscribed to the Internet" (claim 5, emphasis added). Applicant has reviewed the citation and repeat the citation, for convenience, as follows:

e. A home or casual use customer who only dials up to connect to the Internet occasionally, may only need a dynamic or temporary address for that session only. This dynamic IP address is unique for that user for only a particular transaction. Once the user has disconnected from the Internet, the dynamic IP address may be reassigned to another user. However, providers of services or information on the Internet require a permanent or static IP address so that other users may access this information at any time using a known address. Corporate customers having a web site and a domain name may also require one or more static IP addresses. Another configuration variable is that customers may choose between a variety of types of connections to the Internet that are offered by an ISP. For example, a casual use customer may choose to use a modem on a dial-up line to access the Internet, or may choose to use an ISDN (integrated services digital network) adapter in order to access the Internet over a dial-up ISDN line. A corporate or heavy use customer may wish to utilize a **permanent leased line connection** to the Internet that **uses frame relay technology for high-speed access.** (*Emphasis added*).

20. Applicant further states, "Frame relay technology is a network protocol that relies on packet switching technology. Through the use of packet switching technology messages are divided into packets and then sent. Each packet is then transmitted individually and each packet can follow different routes to its destination. Once all the packets forming a message arrive at the destination, the packets are recompiled into the original message." Furthermore, Applicant further notes, "that this is not the same as "permanent connection between the Internet and a user subscribed to the Internet" (Claim 5).

21. Examiner respectfully disagrees as permanent is defined in the dictionary as:

f. "to stay or remain to the end, to last; per + manere to remain: cf. F. permanent. See {Per-}, and {Mansion}.] Continuing in the same state, or without any change that destroys form or character; remaining unaltered or unremoved; abiding; durable; fixed; stable; lasting; as, a permanent impression."

22. A permanent connection between the Internet and a user subscribed to the Internet is defined in Column 2 Lines 19-39 of Li as it clearly states that a customer may wish to utilize a permanent leased line connection to the internet. The latter statement describes exactly what the claim language is trying to convey. It does not matter as to the type of network architecture that needs to be used in order to obtain and maintain a permanent connection between the Internet whether be it a Frame Relay architecture, FIDDI or Ring.

23. As per claim 5 Applicant states, "The Office action cites Li '088 at col. 2, lines 57-67 against the claim language "said system comprising a switching PoP having incoming lines through which switched telephone traffic enters" (claim 5, emphasis added)."

g. FIG. 3 illustrates an embodiment of a POP 42 as shown in FIG. 2. **POP 42 has a connection 44 to either another POP, a NOC** of an IP network, or even directly to a global carrier. POP 42 also has feeder lines 48 for connecting to various Internet customers. The type of feeder line 48 may vary depending upon the service desired by the Internet customer. By way of example, a customer may connect to the POP using an analog modem 52 over a switched dial-up telephone line. This line may be a plain old telephone service (POTS) line at up to speeds of 56 Kbps. A customer may also connect to a POP using an ISDN adapter 54 that connects over a switched digital telephone line. (Emphasis added).

24. Applicant further states, "Applicant's **switching Pop** is different from the Pop of the above citation. Applicant's switching PoP handles traffic to and from end-users that are subscribed to different ISP's. The switching Pop routes traffic to a certain target ISP dependent on characteristics of the traffic. For example, in a dial-in situation an end-user A uses a specific telephone number that is related to an ISP A to connect to the switching Pop after which the switching Pop will route the traffic from end-user A to ISP A. Another end-user B will use another telephone number that is related to an ISP B to connect to the same switching Pop after which the switching Pop will route the traffic from end-user B to ISP B. **In contrast, the Pop referred to by the citation to Li '088 is dedicated to a specific ISP, and is not capable of routing traffic to an ISP dependent on the nature of the traffic.** The Pop 42 in Li '088 is a Pop **related to one specific ISP.**"

25. Examiner respectfully disagrees as the PoP described in the claim language in no effect teaches a switching PoP that handles traffic to and from end users that are subscribed to DIFFERENT ISP's. In contrast, the claim language states broadly that " ... and switching PoP to **an ISP** on the basis of an instruction from the PoP manager." The latter part of the claim states the switching PoP connecting to "an ISP" wherein "an ISP" is interpreted broadly as a single ISP providing service to customers. Furthermore, Li teaches of a switching PoP that can be connected to another PoP in which another PoP can (does not have to) have a connection to another carrier (i.e., ISP) in which a PoP does not have to be dedicated to a specific carrier but can be connected to different ISP's that utilize a large global backbone network to connect to the internet. Furthermore the PoP referred in the reference of Li does route traffic to an ISP dependent on the nature of the traffic in that it consists of a connection to a PoP and depending on the type of "feeder line" the internet customers service can also vary (i.e., different ISP's) wherein a specific ISP may only be able to handle customers who have modems, or another that has the capability to maintain large network of users who use DLS, ISDN, ETHERNET, etc., therefore traffic can be routed to different ISP's depending on "nature of the traffic" (i.e., type of connection).

26. As per claim(s) 5 Applicant presents the table and arguments stated below.

<u>Claim Language</u>	<u>Citation from Office Action</u>
"characterized in that said system Further comprises a PoP manager"	(i.e., NOC) (See col. 5, lines 24-45)
"said system comprising a switching PoP having incoming lines through which switched telephone traffic enters"	(i.e., NOC)(See col. 5, lines 30-56)
"from the PoP manager"	(i.e., NOC)

27. In addition to the Office action citations listed in **Table A**, the Office action also cites (i.e., hardware or software for management) (See col. 5, lines 34-46) against Applicant's claim language "inputs and switching PoP to an ISP on the basis of an **instruction**" (claim 5, emphasis added). As

can be seen from **Table A**, the office action sites col. 5 of Li '088 at Lines 24-56 which is an entire paragraph referencing Figure 2 of Li '088, and in particular Li '088s NOCs against Applicant's claim language that includes the term "PoP". That cited portion of Li '088 is reproduced as follows:

h. FIG. 2 illustrates in greater detail an IP network 30 as shown in FIG. 1. Typically, an Internet service provider offers local access to the Internet to its customers through such an extended IP network 30 that consists of perhaps hundreds of points of presence that are connected by high-speed dedicated lines that are leased from a telecommunications provider. The IP network 30 may be one of many IP networks that are managed by an Internet service provider. IP network 30 contains any number of points of presence (POPS) 42 that are interconnected with each other and to a network operation center (NOC) 40. The network operations center 40 contains hardware, software and systems for managing and monitoring the IP network 30. IP network 30 connects over one or more high-speed lines 46 to a global carrier 16. Typically, each POP 42 is connected to another POP and eventually to the NOC via a high-speed leased line 44 using a T-1 or T-3 circuit. Each point of presence 42 has any number of feeder lines 48 that connect the POP to a customer 50. The Internet customer 50 may be one of a wide variety of Internet customers. By way of example, customer 50 may be a casual user dialing in from their home with a single computer, a corporate user, a single computer in a corporation, a router which is used to connect any number of other computers in a local area network to the Internet, a computer used for connecting a corporate intranet to the Internet, or other similar connection. Feeder lines 48 may be dial-up or leased lines, or other type. In general, the communication lines shown take a wide variety of forms. By way of example, lines may be traditional telephone copper wire pairs, a permanently installed wire, a cable system coaxial cable, fiber optic cable, a microwave or other electromagnetic transmission device, or other communication line. (Emphasis added with respect to NOCs and the Li '088s POPs).

28. With respect to the above noted rejections it should be considered that if there is a permanent connection instead of a dial-in connection between an end-user and the switched PoP, there is no telephone number that can be used as a reference for the switched Pop to route the traffic to a certain target ISP. According to Applicant's claims, the PoP manager (8) instructs the switching Pop how to route the traffic. A POP (as disclosed in Li '088) will not need such an instruction since there is a predetermined ISP to which the traffic should be routed. Therefore, as can be seen from Figure 2, the Li '088 NOC 40 is not the same as Applicant's PoP manager (8). The Li '088 NOC 40 can send instructions to POPS, but these instructions do not concern the routing of traffic by switching PoPs to ISPs.

29. Applicant also notes that generally, a NOC is a physical space from which typically large telecommunications network is managed and therefore is not the same as Applicant's switching PoP.

30. Examiner respectfully disagrees as the Network Operations Center (NOC) is a manager that has control of the entire network and provides instructions (i.e., software related) to manage PoP's, user connections, and manage routing traffic. Furthermore, the PoP described in the claim language in no effect teaches a switching PoP that handles traffic to and from end users that are subscribed to DIFFERENT ISP's. In contrast, the claim language states broadly that "... and switching PoP to **an ISP** on the basis of an instruction from the PoP manager." The latter part of the claim states the switching PoP connecting to "an ISP" wherein "an ISP" is interpreted broadly as a single ISP providing service to customers. Furthermore, Li teaches of a switching PoP that can be connected to another PoP in which another PoP can (does not have to) have a connection to another carrier (i.e., ISP) in which a PoP does not have to be dedicated to a specific carrier but can be connected to different ISP's that utilize a large global backbone network to connect to the internet. Additionally, Examiner agrees that the NOC is not the same as the Applicants switching PoP as stated by the Applicant. The NOC is the same as a PoP manager wherein the NOC is responsible for routing traffic, designating PoP's to different areas, connecting users, and solving network problems, etc.,

31. As per claim(s) 6 Applicant states, "Further, with respect to dependent claim 6, the rejection stated, (i.e., there exist **many forms of connections** in which the user can be connected as including but not limited to **directly being connected to the switching PoP**)", (See col. 5, lines 38-56). (Emphasis added). Claim 6 is recited as follows:

i. System according to claim 5, characterized in that the inputs of the PoP not being connected to the telephone exchange can be executed as two-wire connections in such a way that the subscriber is **directly connected to the switching PoP** and is **switched on the basis of an instruction** of the PoP manager. (Emphasis added and element numbering removed from claim for simplification).

32. Applicant notes that the citation does not teach the invention of Claim 6. The Office action is focused on "directly connected" while ignoring the aspect of the invention "switched on the basis of an instruction of the PoP manager." Nowhere in the cited col. 5, lines 38-56 is there any teaching of Applicant's "switched on the basis of an instruction to the PoP manager."

33. Examiner respectfully disagrees as the referenced column and line numbers state that the subscriber can be directly connected to the switching PoP and furthermore can be switched internally by the NOC on the basis of an instruction (i.e., software related), (See Column 5 Lines 24-56). The Network Operations Center (NOC) is a manager that has control of the entire network and provides instructions (i.e., software related) to manage PoP's, user connections, and manage routing traffic in which the NOC can switch the PoP on the basis on any instruction.

34. As per claim(s) 7 Applicant states, " Dependent claim 7, the office action states that Li '088 discloses:

j. "standard multiplexing equipment (i.e., distribution router) (See Column 6 Lines 13-25); "employed to which the subscriber is connected by a two-wire connection (i.e., copper wire pairs) (See Column 5, Lines 49-56);"said multiplexing equipment being connected to said switching PoP (i.e., POP)(See Column 6 Lines 13-20); "and is switched (i.e., managed); and "on the basis of an instruction of the PoP manager (i.e., NOC (See Column 5, Lines 34-56)."

35. Importantly, Applicant notes that nowhere in Li '088 is there any teaching of Applicant's "**switching PoP ... switched on the basis of an instruction** of the PoP manager." (Claim 6, emphasis added). Therefore, Applicant respectfully requests that the rejection be withdrawn.

36. Examiner respectfully disagrees as the referenced column and line numbers state that the subscriber can be directly connected to the switching PoP and furthermore can be switched internally by the NOC on the basis of an instruction (i.e., software related), (See Column 5 Lines 24-56). The Network Operations Center (NOC) is a manager that has control of the entire network and provides instructions (i.e., software related) to manage PoP's, user connections, and manage routing traffic in which the NOC can switch the PoP on the basis on any instruction. Moreover, no argument should be addressed where if the claim language states, "standard multiplexing equipment (i.e., distribution router) (See Column 6 Lines 13-25); "employed to which the subscriber is connected by a two-wire connection (i.e., copper wire pairs) (See Column 5, Lines 49-56); "said multiplexing

equipment being connected to said switching PoP (i.e., POP) (See Column 6 Lines 13-20); "and is switched (i.e., managed)"; and "on the basis of an instruction of the PoP manager (i.e., NOC) (See Column 5, Lines 34-56)." The latter is a straightforward depiction of what the claim language addresses and which is clearly shown by the necessary column and line numbers in the reference of Li.

37. As per claim(s) 8 Applicant states, "The Office action has rejected claim 8 under the provisions of 35 USC § 103 as being obvious over the teachings in Li '088 taken in view of the Sofman patent (United States patent 5,937,042 issued to 5,937,042 et al on Aug. 10, 1999 (hereinafter Sofman '042)). This rejection is respectfully traversed.

38. The rejection specifically states, at page 4 of the Office Action, that: Li discloses the claimed invention as described above [referring to the remarks of the 35 USC § 102 rejection of the Office action]. However, Li does not explicitly teach the PoP is switchable by a PoP manager at a distance. Sofman teaches PoP is switchable by a PoP manager (i.e., EO) at a distance. [omitting several citations to Sofman '042 which are recited below], wherein rehome refers to a network change which involves moving telephone service traffic from one switching center to a different switching center. Likewise, the term rehome or rehomeing, used in a verb sense, is referred to as making the network change of moving telephone **service traffic** from one switching center to a **different switching center**.

39. The Sofman '042 citation, at col. 10, line 63 to col. 11, line 9 states:

k. With regard to distance constraints, if a route distance between an EO and IXC switch is great, undesirable echo effects must be considered. Rehomeing an RCG to a new switch is constrained to some distance limitation. For example, a non-microwave route distance between an RCG and IXC switch should not exceed a reasonable limit such as 600 miles. The distance of circuits in a particular RCG includes adding the distance between the switch and POP to the distance from POP to the most remote EO. However, if an echo-canceller (or echo suppresser) is used, the distance limit is extendible. In case of strong COI between an RCG A and RCG B that is homed to a remote switch S, a trade-off exists between COI and the cost of rehomeing A to the remote switch S with echo-canceller(s).

40. Further Sofman '042 is cited at col. 30, lines 1-3, which states: "Distance actually refers to distance between the switch and opposite terminating end (usually POP) of the particular RCG."

41. In contrast to the remarks of the rejection (recited above), Applicant notes that Sofman '042 actually refers to distance diverting traffic streams (which are network changes). The POP manager (8) does something different, i.e., it instructs the switching POP how to route traffic that is received via a permanent connection between an end user and the switched pop. Hence Li '088 in view of Sofman '042 [do] not make Applicant's claim 8 obvious.

42. Examiner respectfully disagrees as the claim language simply states that "... characterized in that the PoP is switchable by a PoP manager at a DISTANCE." Nowhere does the claim language state that "it instructs the switching POP how to route traffic that is received via a permanent connection between an end user and the switched pop." Therefore, interpreted broadly, distance is defined as the space between two objects wherein the reference of Sofman provides a clear indication of distance with relation to a manager (i.e., EO) being able to switch a PoP, (See Column 10 Lines 63-67 & Column 11 Lines 1-25).

Conclusion

43. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- l. Tverskoy et al. (US Patent No. 6,341,160) discloses answering machine for transmitting messages to remotely accessible user account;
- m. Bowater et al. (US Patent No. 6,282,269) discloses voice mail on the Internet; and
- n. Terwitt et al. (US Patent No. 6,151,629) discloses triggered remote dial-up for Internet access;

44. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sajid A Yussuf whose telephone number is (703) 305-8752. The examiner can normally be reached on Monday-Thursday 7:30-5:00 PM and Alternate Fridays.

45. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (703) 305-4003. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3718.

46. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Sajid Yussuf
Patent Examiner
Technology center 2100
27 May 2004


RUPAL DHARIA
SUPERVISORY PATENT EXAMINER